

REMARKS

Claims 10-12 are currently pending in the application. The application and claims have not been amended in response to the present Office Action. Therefore, no new matter has been added.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected claim 10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,278,252 (Lyons). The Examiner argues that Lyons discloses each and every element of currently pending claim 10. Applicant respectfully traverses this rejection.

Referring to Figs. 1-3, Lyons is directed to a table game including a stand 14 having a playing surface 10, rails 24, 26 and end members 28, 30 extending upwardly from a periphery of the playing surface 10. A ball 56 is retained on the playing surface 10 by the rails 24, 26 and end members 28, 30. Uprights 52, 54 extend upwardly from a mid-portion of each side rail 24, 26 and a transparent shield 16 is positioned at a middle of the playing surface 10 and supported a predetermined distance above the playing surface 10 by the uprights 52, 54. The object of the game is to direct the ball 56 into a goal in a board 34, 36 on an opponent's side of the playing surface 10. The ball 56 is directed toward the opponent's side of the playing surface 10 by a paddle 58. The transparent shield 16 is positioned such that its lower edge 17 is above the playing surface 10 such that the ball 56 may roll under the transparent sheet 16 to an opponent's side of the playing surface 10. The transparent shield 16 extends to an upper edge 16 approximately three feet (3') above the playing surface 10 and outwardly beyond the side rails 24, 26 to block the ball 56 if it travels off the playing surface, thereby protecting opposing players from being struck by the ball 56. The transparent shield 16 permits each player to view each side of the playing surface 10 and generally prevents the ball 56 from striking a player when the ball 56 bounces upwardly from the player surface 10.

Referring to Figs. 5 and 6, the present application is directed to a visual barrier assembly 300, 400 for use with a game table to obscure a user's view of at least a portion of the playing surface 352 of the game table. The visual barrier assembly 300, 400 includes at least one support arm 330, 430 coupled to the game table and a visual barrier 310, 410 having first and second ends that are releasably attachable to the at least one support arm 330, 430. The visual barrier

310, 410 is fabricated from wood, metal, polymer, cloth or other opaque materials that create a visual barrier to obscure a user's view of the playing surface 352.

Claim 10 is directed to a visual barrier assembly for use with a game table having a first end and a second end and having a playing surface and recites, *inter alia*, at least one support arm coupled to the game table; and a visual barrier having first and second ends wherein: the visual barrier is positionable on the support arm to obscure a user's view of at least a portion of the playing surface.

Applicants respectfully submit that Lyons does not teach, suggest or disclose each and every element of currently pending claim 10 of the present application. Specifically, Lyons does not teach, suggest or disclose a visual barrier that is positionable relative to a game table to obscure a user's view of at least a portion of the playing surface. Lyons includes the transparent shield that does not create a visual barrier such that a player's view of a portion of the playing surface is obscured. The transparent shield of Lyons permits each player to view all portions of the game table while protecting the player from the ball if it bounces off of the playing surface. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw any rejection of claim 10 based upon anticipation by Lyons.

Claim Rejections – 35 U.S.C. § 103

The Examiner rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Lyons in view of U.S. Patent No. 6,063,005 (Schwartz). The Examiner argues that Lyons discloses each and every element of claim 12 except for a hole and pin arrangement for releasably installing the visual barrier. The Examiner further argues that Schwartz discloses this feature and it would have been obvious to modify the device disclosed in Lyons in view of the device of Schwartz in order to construct a device having each and every element of currently pending claim 12. Applicant respectfully traverses this rejection.

Referring to Figs. 1 and 2, Schwartz is directed to a track and field hurdle including a hurdle board 49 having a pair of shafts 26, 27 with holes 28-32 therein, a stand 23 including a pair of upwardly extending legs 24, 25 having a hole therein and a pin 38 that may be inserted into selected holes 28-32 when they are aligned to modify the height of the hurdle board 49.

Claim 12 is dependent upon claim 10. As was described above, claim 10 includes the features of a visual barrier having first and second ends wherein: the visual barrier is positionable on the support arm to obscure a user's view of at least a portion of the playing surface.

Applicant respectfully submits that the Examiner is incorrect in asserting that one having ordinary skill in the art would modify Lyons in view of Schwartz to include each and every element of currently pending claim 12. As was outlined above, Lyons does not teach, suggest or disclose a visual barrier positionable on support arms to obscure a user's view of at least a portion of the playing surface. Applicant respectfully submits that one having ordinary skill in the art would not replace the transparent shield of Lyons with the opaque hurdle of Schwartz because the opaque hurdle would defeat the purpose of the transparent shield in that an opposing player would not be able to see the opponents side of the playing field if the Schwartz hurdle replaced the transparent shield. In addition, one having ordinary skill in the art would not replace the transparent shield of Lyons with the field hurdle of Schwartz because the hurdle is not sized nor shaped to block balls that are directed off of the playing surface of Lyons, as the shape of the transparent shield of Lyons extends over the edges of the table and between the side rails to block the ball. The hurdle of Schwartz would not have this shape, thereby increasing the probability that an opposing player would be struck by a ball that bounces off of the playing surface. Further, there is no motivation for one having ordinary skill in the art to replace the transparent shield of Lyons with the opaque and height adjustable hurdle of Schwartz.

Applicant also respectfully submits that one having ordinary skill in the art would not modify Lyons in view of Schwartz such that the transparent shield has an adjustable height as is proposed by the Examiner. Specifically, the transparent shield of Lyons has a lower edge 17 that is positioned a predetermined distance (preferable $\frac{3}{4}$ ") above the playing surface such that the game ball is able to roll under the transparent shield 16. However, when the ball leaves the playing surface the shield deflects the ball to protect an opponent from a flying ball. Accordingly, one having ordinary skill in the art would not modify the shield of Lyons to have an adjustable height because the height is designed to be fixed such that a ball that leaves the playing surface is blocked or deflected from hitting an opposing player when the ball leaves the playing surface and a ball that is rolling on the playing surface rolls under the shield. That is, one having ordinary skill in the art would not increase the distance between the lower edge of the

shield of Lyons from the playing surface because such an increase in height would increase the likelihood that a ball leaving the playing surface would strike an opposing player. It would be undesirable for a playing ball struck by an opposing player to strike his opponent at least in part because Lyons utilizes steel balls. In addition, one having ordinary skill in the art would not modify the transparent shield of Lyons to reduce the height between the lower edge and playing surface because such a reduction in height would likely prevent the ball from rolling under the lower edge and would render the game table useless.

Based upon each of the above, Applicant respectfully requests that the Examiner reconsider and withdrawn any rejection of claim 12 based upon unpatentability over Lyons in view of Schwartz.

Allowable Subject Matter

The Examiner objected to claim 11 as being dependent upon a rejected base claims but would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for the indication that claim 11 includes allowable subject matter. Claim 11 is dependent upon claim 10 and, based upon the above-listed arguments related to the patentability of claim 10, respectfully submit that claim 11 is in condition for allowance and respectfully request that the Examiner so indicate in any response to the present Request for Reconsideration.

CONCLUSION

In view of the foregoing Request for Reconsideration and remarks, Applicant respectfully submits that the present application, including claims 10-12, is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

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